

## **REMARKS / ARGUMENTS**

### **Status of Claims**

Claims 1-40 were pending and have been rejected by the Examiner. Claims 1, 8, 10, 16, 17, 24, 25, 32, 33, and 40 have been amended. Claims 14 and 30 have been cancelled without prejudice or disclaimer. Accordingly, claims 1-13, 15-29, and 31-40 are presented and at issue.

### **Claim Objections**

The Examiner objected to claims 1, 8, 10, 16, 17, 24, 25, 32, 33, and 40 because of the following informalities. Claims 1, 8, 10, 17, 24, 25, 33, and 40 recited the phrase “encrypted content/title key”, and the Examiner alleged that this phrase “renders the claims ambiguous to define boundary and scope of the claims.” The Examiner suggested replacing this phrase with “encrypted content and title key”, and Applicants have fully adopted the Examiner’s suggestion herein. Claims 1, 16, 17, 32, and 33 recited the phrase “title key decryption/encryption module”, and the Examiner alleged that this phrase “renders the claims ambiguous to define boundary and scope of the claims.” The Examiner suggested replacing this phrase with “title key decryption and encryption module”, and Applicants have fully adopted the Examiner’s suggestion herein. In view of the foregoing changes, it is submitted that all of the Examiner’s objections have been overcome.

### **Rejections Under 35 U.S.C. §103(a)**

Claims 1-40 were rejected under 35 U.S.C. 103(a) as being anticipated by Harada et al. (US 2003/0009681 A1) in view of Asano et al. (US 2003/0051151).

Applicants respectfully traverse these rejections. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art;

that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Independent claim 1 has been amended to recite, *inter alia*, “transmitting the encrypted title key, a digest of the media key block, and the media ID to a clearinghouse server utilizing a title key ~~decryption/encryption~~ decryption and encryption module, wherein the clearinghouse server does not pre-store the title key which comprises an underlying title key upon which a plurality of encrypted title keys, including the encrypted title key, are based; wherein the title key decryption and encryption module determines whether or not a complete media key block corresponding to the digest of the media key block has been previously seen by the title key decryption and encryption module and, if so, the title key decryption and encryption module utilizing the previously seen media block; and, if the complete media key block corresponding to the digest of the media key block has not been previously seen by the title key decryption and encryption module, then the title key decryption and encryption module requesting the complete media key block from the media recording device”.

Similar features are set forth in amended independent claims 17 and 33. No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as at paragraph [0040], FIG. 4, and cancelled claims 14 and 30, for example.

None of the cited references disclose the foregoing features. As a preliminary matter, on Page 4 of the Examiner's Office Action of May 23, 2008, the Examiner states that “Harada does not explicitly disclose wherein the clearinghouse server does not pre-

store the title key. Hagan et al., in an analogous art, however disclose wherein the clearinghouse server does not pre-store the title key [0020]”. However, the Examiner’s obviousness rejection is based upon Harada and Asano, not Harada and Hagan. The Hagan reference does not appear to be of record in the present application, and no other information was provided by the Examiner to permit an identification of the Hagan reference, such as a patent number, for example. Thus, for purposes of the present rejection, the Applicants will assume that the Examiner intended to refer to Asano instead of Hagan, in order to expedite prosecution. If this assumption is not correct, Applicants would hereby request the Examiner to issue a corrected Office Action with a newly reset period for response.

Harada discloses a server apparatus that encrypts content based upon a distribution key. The apparatus transmits the encrypted content to a PC via a network. The PC, to which a memory card is connected, outputs the received encrypted content to the memory card. The memory card decrypts the encrypted content using the distribution key, converts the data format of the decrypted content, encrypts the content using a medium unique key that is unique to the memory card, and records the resulting re-encrypted content internally. A playback apparatus decrypts the re-encrypted content using the medium-unique key and plays back the decrypted content. Refer, for example, to Harada’s Abstract, and also to paragraphs [0015] – [0019]. However, Harada fails to teach or suggest Applicants’ claimed feature of transmitting a digest of the media key block to a clearinghouse server, wherein the title key decryption and encryption module determines whether or not a complete media key block corresponding to the digest of the media key block has been previously seen by the title key decryption and encryption module and, if so, the title key decryption and encryption module utilizing the previously seen media block; and, if the complete media key block corresponding to the digest of the media key block has not been previously seen by the title key decryption and encryption module, then the title key decryption and encryption module requesting the complete media key block from the media recording device.

Asano fails to remedy the deficiencies of Harada. Asano describes an information processing apparatus that allows encrypted data being recorded to be decrypted by the apparatus only if a proper license has been granted to the apparatus. One objective of the Asano system is to eliminate decryption and re-encryption of the data in the processing to store the data. The data is received as a result of a transfer or a copy operation from another apparatus or received as data presented by a data distribution site. Refer, for example, to paragraphs [0017] through [0020] of Asano. However, Asano fails to disclose or suggest Applicants' claimed feature of transmitting a digest of the media key block to a clearinghouse server, wherein the title key decryption and encryption module determines whether or not a complete media key block corresponding to the digest of the media key block has been previously seen by the title key decryption and encryption module and, if so, the title key decryption and encryption module utilizing the previously seen media block; and, if the complete media key block corresponding to the digest of the media key block has not been previously seen by the title key decryption and encryption module, then the title key decryption and encryption module requesting the complete media key block from the media recording device.

In view of the foregoing, Harada and Asano taken as a whole fail to teach or suggest each and every element of the claimed invention. Harada and Asano are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the Applicants have done, fail to recognize a problem recognized and solved only by the present invention, fail to offer any reasonable expectation of success in combining the references to perform as the claimed invention performs, fail to teach a modification to prior art that does not render the prior art being modified unsatisfactory for its intended purpose, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness.

In view of the foregoing, claims 1, 17, and 33 are patentable over Harada and Asano. The Applicants further submit that independent claims 1, 17, and 33 are in

condition for allowance. Reconsideration and withdrawal of the § 103(a) rejection is respectfully requested.

Claims 2-13 and 15-16 depend from claim 1 and include all recitations thereof. Similarly, claims 18-29 and 31-32 depend from claim 17 and include all recitations thereof. Likewise, claims 34-40 depend from claim 33 and include all recitations thereof. Accordingly, it is submitted that claims 2-13, 15-16, 18-29, 31-32, and 34-40 are patentable over Harada and Asano for the reasons discussed above in connection with claims 1, 17, and 33.

In light of the foregoing remarks and amendments, Applicants respectfully submit that the Examiner's rejections under 35 U.S.C. §103(a) have been traversed, and that the application is now in condition for allowance. Such action is therefore respectfully requested. If a communication with Applicants' Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No.

06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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